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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,791	04/13/2004	Naruki Suetake	Q80419	3257

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EXAMINER	
LAU, TUNG S	

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/822,791	SUETAKE ET AL.
	Examiner	Art Unit
	Tung S. Lau	2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Akamatsu et al. (U.S. Patent Application Publication 2004/0025584).

Regarding claim 1:

Akamatsu discloses a heat sensitive flow meter for measuring a flow rate of a fluid passing through a pipe provided in an internal combustion engine, comprising: a filter for inputting a flow rate signal outputted from a flow rate detector installed within the suction pipe and subjecting the flow rate signal to a filter processing (fig. 8, unit 13, page 1, section 0003-0004); and a selector for comparing the flow rate signal outputted from the flow rate detector and a filter signal outputted from the filter to select the signal having a higher voltage from the flow rate signal and the filter signal as a new flow rate signal (page 10, claim 17-18).

Regarding claim 5:

Akamatsu discloses a heat sensitive flow meter' for measuring a flow rate of a fluid passing through a pipe provided in an internal combustion engine, the improvement comprising: comparing a flow rate signal outputted from flow rate detection means installed within the suction pipe and a filter signal obtained by subjecting the flow rate signal (fig. 8, unit 13, page 1, section 0003-0004) to a filter processing using a previously set filter function and selecting the signal having a higher voltage from the flow rate signal and the filter signal as a new flow rate signal (page 10, claim 17-18).

Regarding claim 9:

Akamatsu discloses in a heat sensitive flow meter for measuring a flow rate of a fluid passing through a suction pipe provided in an internal combustion engine, the improvement comprising: a receiving data on a throttle aperture of the internal combustion engine and data on the number of revolutions of the internal combustion engine to judge whether or not the throttle aperture is equal to or larger than a set value for the throttle aperture previously set in correspondence to the number of revolutions (page 1, section 0003-0004); and when the throttle aperture is equal to or larger than the set value (page 1, section 0003-0004), judging whether or not a value of a flow rate signal outputted from the flow rate detection means installed within the pipe is equal to or smaller than a set value for a flow rate signal previously set and selecting the set value as a new flow rate signal when the value of the flow rate signal is equal to or smaller than the set value (page 10, claim 17-18).

Regarding claim 10:

Akamatsu discloses in a heat sensitive flow meter for measuring a flow rate of a fluid passing through a suction pipe provided in an internal combustion engine, the improvement comprising: receiving data on a pressure within the pipe and data on the number of revolutions of the internal combustion engine to judge whether or not the pressure is equal to or larger than a set value for the pressure previously set in correspondence to the number of revolutions (page 1, section 0003-0004); and when the pressure is equal to or larger than the set value, judging whether or not a value of a flow rate signal outputted from a flow rate detection means installed within the pipe is equal to or smaller than a set value for the flow rate signal previously set and selecting the set value as a new flow rate signal when the value of the flow rate signal is equal to or smaller than the set value (page 10, claim 17-18).

Regarding claims 2, 6, Akamatsu discloses delaying flow rate with time constant (page 3, section 0043); Regarding claim 3, Akamatsu discloses high pass filter (fig. 10), with flow rate with predetermined time constant (fig. 10); Regarding claims 4, 8, Akamatsu discloses a filter means for arithmetically operating lower than mean value by a predetermine value (fig. 10); Regarding claim 11, Akamatsu discloses a heat sensitive flow meter (page 1, section 0002-0003, abstract, fig. 4); Regarding claim 8, Akamatsu discloses a filter with predetermine time constant (page 3, section 0043).

Response to Arguments

2. Applicant's arguments filed 2/3/2005 have been fully considered but they are not persuasive.

A. Applicant argues in the lengthy arguments that the prior art does not show the 'rate signal outputted from the flow rate detection means and a filter signal outputted from the filter means to select having higher voltage from the flow rate signal and the filter signal as a new flow rate signal'. Akamatsu discloses 'rate signal outputted from the flow rate detection means and a filter signal outputted from the filter means to select having higher voltage from the flow rate signal and the filter signal as a new flow rate signal' in fig. 4, 5, page 10, claim 17-18.

B. Applicant continue to argue in the lengthy arguments that the prior art does not show the 'filter (processed)'. Akamatsu discloses 'filter (processed)' in fig. 4, 5.

C. Applicant continue to argue in the lengthy arguments that the prior art does not show the 'low pass filter and delayed flow rate with time constant'. Akamatsu discloses 'low pass filter' in fig. 4, and the result in fig. 5.

D. Applicant continue to argue in the lengthy arguments that the prior art does not show the 'low pass filter and delayed flow rate with time constant'. Akamatsu discloses 'low pass filter and delayed flow rate with time constant' in fig. 4 and 5.

E. Applicant continue to argue in the lengthy arguments that the prior art does not show the 'high pass filter'. Akamatsu discloses 'high pass filter in fig. 4 and 5.

F. Applicant continue to argue in the lengthy arguments that the prior art does not show 'the filter arithmetically derives a value lower than a mean value of the flow rate signal by predetermined value to output a resultant value'. Akamatsu discloses 'the filter arithmetically derives a value lower than a mean value of the flow rate signal by predetermined value to output a resultant value' in fig. 5.

G. Applicant continue to argue in the lengthy arguments that the prior art does not show everything in the claims. please refer to the section 1 of the rejection. The examiner reminds to the applicants that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274. The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TL

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